

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

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| DANIELLE COFFEY, |) | |
| |) | |
| Charging Party, |) | Cause No. 0041011027 |
| |) | |
| vs. |) | ORDER AFFIRMING |
| |) | NOTICE OF DISMISSAL |
| PIZZA HUT, |) | |
| |) | |
| Respondent. |) | |

On April 14, 2004, the Human Rights Bureau (HRB) received a complaint filed by Charging Party (Coffey) alleging sexual harassment by a former employer, Respondent, Pizza Hut. In Coffey's complaint, the date cited as the most recent incident of discrimination was "May 2003." The Human Rights Bureau notified Coffey that the complaint appeared untimely by statute. See § 49-2-501(4), MCA (2003). Coffey responded by alleging that "disability" tolled the statute.

On April 26, 2004, HRB issued a letter to Coffey's counsel requesting additional information regarding Coffey's disability within 30 days for the purpose of verifying that Coffey's disability existed when the right of action accrued. Coffey did not respond. The Human Rights Bureau issued a Notice of Dismissal and Right to Sue on May 27, 2004. On June 7, 2004, Coffey submitted her objection to the Human Rights Commission. The Commission considered the matter on September 23, 2004.

After careful and due consideration, the Commission concludes that Charging Party was afforded an adequate opportunity to establish that the statute was tolled by a disability. Therefore, the Commission concludes the decision of the Human Rights Bureau to dismiss this matter does not constitute an abuse of discretion. 24.9.1714(3) ARM.

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. § 49-2-509(5), MCA (2003); 24.9.1714(5), ARM. If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Charging Party's objection is overruled. The Commission affirms the decision of the Human Rights Bureau to issue a notice of

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dismissal.

Dated this _____ day of October 2004.

Mr. Gary Hindoien, Chair
Montana Human Rights Commission

CERTIFICATE OF SERVICE

The undersign employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on October ____ 2004.

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